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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,936	03/12/2001	Paul R Mort III	7275/JB	7249

27752 7590 07/31/2003

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EXAMINER

WEBB, GREGORY E

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/786,936

Applicant(s)

MORT III ET AL.

Examiner

Gregory E. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The reply filed 9-5-2003 has been received. The applicant's amendments have overcome previous 112 issues.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3-4, 6-10 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Dorset (US 5,486,317).

4. Claims 1, 3-4, 6-10 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Sikra (WO 97/32954).

5. Claims 1, 3-4, 6-10 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Akkernabs et al (US 6,274,544).

6. The applicant argues the following: 1) the applicant is not sure if '544 teaches binder particle size; 2) '544 does not teach directing the binder at the choppers so that the desired binder size is achieved; 3) arguments 1 and 2 apply to the other prior art references.

7. First the applicant's amendments do not alter the scope of the invention significantly. The applicants require that the second mixer has at least one blade. As all mixers have at least one blade, this amendment does not significantly alter the scope of the claim. Second, the applicant states the tip speed must be at least 3 m/s. The applicant makes no specific statement that the tip speed limitation was not met.

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8. Concerning the first argument, the prior art clearly defines $d_{3,2}$ as the diameter of the solid starting material (see col. 3, lines 3-6).

9. Concerning the second argument, the applicant does states that the prior art fails to teach moving the product to be blended toward the blender. It is not clear to the examiner how the product would reach the blender if the product was not directed at the blender. If one were to desire the product reach the blender one would choose a route that was most direct. Such a direct route reduces residency time. Minimized residency time in powder blending is well-known to be critical (see US 5,663,136, col. 9, lines 43-68). It is not clear why one would choose an indirect route to the mixer as such a choice would only lend increase this residency time. As such the examiner finds this amendment to be trivial and the arguments to be unconvincing.

10. Concerning argument 3, such blanket arguments make little sense in the context of the applicant's amendments. It is unclear how the first argument applies to the "WO" reference as this reference was stated to teach a 300-600 micron range. Again, concerning the second argument, the examiner is not aware of why anyone would feed a product into a mixer in a path other than the direct path. Similarly Akkermans was stated to teach particle diameters of the final product in table 1 to have a Rosin Rammier distribution with an average diameter ranging from 338-689 microns.

11. Concerning the applicant's amendments requiring at least one blade on the moderate speed mixer, a background on moderate speed mixers and a description of their common parts can be found in US 5,736,502 (see col. 6, lines 48-65). Each of the moderate speed mixers

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described has at least one blade for performing the blending. Such requirements are clearly inherent to the prior art blenders.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory E. Webb whose telephone number is 703-305-4945. The examiner can normally be reached on 9:00-17:30 (m-f).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 703-308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9310 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

A handwritten signature in black ink, appearing to be 'G. Webb', with a large, stylized initial 'G' and several loops.

Gregory E. Webb
Primary Examiner
Art Unit 1751

gw
July 25, 2003